

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

EMPLOYERS & CEMENT MASONS #90
HEALTH & WELFARE FUND and
EMPLOYERS & CEMENT MASONS #90
PENSION FUND,

Plaintiffs,

v.

LUGGE CONCRETE CONSTRUCTION,
INC. and CONNIE S. LUGGE, *in her*
individual capacity,

Defendant.

Case No. 09-cv-825-JPG

MEMORANDUM & ORDER

This matter comes before the Court on Plaintiffs' Notice of Voluntary Dismissal (Doc. 12). Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), a plaintiff has an absolute right to dismiss an action without a court order at any time before service by an adverse party of an answer or of a motion for summary judgment, whichever first occurs. Defendants have not yet filed an answer or motion for summary judgment in this case. The Court therefore finds that all claims in this case are **DISMISSED without prejudice**. The Court **DIRECTS** the Clerk of Court to enter judgment accordingly.

IT IS SO ORDERED.

DATED: December 11, 2009

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE